

AMENDED IN SENATE JUNE 25, 2002  
AMENDED IN ASSEMBLY MAY 24, 2001  
AMENDED IN ASSEMBLY MAY 10, 2001  
AMENDED IN ASSEMBLY APRIL 5, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1219**

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**Introduced by Assembly ~~Member Frommer~~ Members *Simitan*  
*and Pescetti*  
(~~Coauthor: Assembly Member Koretz~~)**

February 23, 2001

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~~An act to add Section 12071.5 to the Penal Code, relating to firearms.~~  
*An act to amend Sections 814, 815, 816, 950, 953, and 959 of, and to  
add Section 811 to, the Penal Code, relating to criminal procedure.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1219, as amended, ~~Frommer—Simitan. Firearms: safety  
mechanisms~~ *Criminal procedure: identity.*

*Under existing law, warrants of arrest are issued in the name of the  
defendant, or in any name, if the actual name of the defendant is  
unknown. Under existing law, a person must be named in an accusatory  
pleading to commence a prosecution, and fictitious or erroneous names  
must be supplemented with true names, when they are identified.*

*This bill would define a corpus identity as a unique identifier for a  
biologically or biometrically defined set of characteristics sufficient to  
distinguish a person described by those characteristics from any other  
person with reasonable certainty. This bill would allow a complaint or*

*a warrant for arrest to be issued for a person by name, corpus identity, or both. This bill would provide for the sufficiency of an accusatory pleading that uses only a corpus identity or a corpus identity with a name. This bill would also require the addition of a true name, once identified, to any accusatory pleading, whether the defendant was previously identified by erroneous or fictitious name, by corpus identity, or by both an erroneous or fictitious name and a corpus identity.*

~~Existing law generally regulates safety design aspects for handguns.~~

~~This bill, in addition, would provide that, except as provided, commencing January 1, 2006, no licensed firearms dealer may sell, loan, or transfer any pistol, revolver, or other firearm capable of being concealed upon the person unless that firearm includes an integrated mechanical safety device or other incorporated design technology that is designed to prevent children and other unauthorized users from discharging the handgun, as specified. Violation of these provisions is punishable by a civil penalty of up to \$50,000 for each firearm that is sold, loaned, or transferred in violation of the provisions. Violation of the provisions, as specified, would also subject a firearms dealer to forfeiture of the firearms license. This bill would also require the Attorney General to adopt rules and regulations for the implementation and enforcement of these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~—no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 ~~SECTION 1. — Section 12071.5 is added to the Penal Code, to~~
- 2 *SECTION 1. Section 811 is added to the Penal Code, to read:*
- 3 *811. (a) For the purpose of this code:*
- 4 *(1) "Corpus identity" means any unique alphanumeric that is*
- 5 *intended to reference a specific biometric symbol or biologic*
- 6 *symbol or copy thereof, contained on any record or in any file*
- 7 *maintained by any federal, state, or local law enforcement agency,*
- 8 *laboratory, or court.*
- 9 *(2) "Biometric symbol" means any image or recording,*
- 10 *produced by the interaction of a person with an object, medium,*
- 11 *instrument or device, having sufficient characteristics so as to*
- 12 *distinguish that person, to a reasonable certainty, from all other*
- 13 *persons.*

1 (3) “Biologic symbol” means any alphanumeric, analog or  
2 digital signal, image, or representation that is caused or produced  
3 by a chemical, mechanical, radiological, biological, or physical  
4 process or analysis of fluid, cell, tissue, or waste product from a  
5 person, having sufficient characteristics so as to distinguish that  
6 person, to a reasonable certainty, from all other persons.

7 (b) A complaint shall identify the defendant by name, by both  
8 name and corpus identity, or by corpus identity.

9 (c) A court, upon belief that the name listed on the complaint  
10 was derived from the fraudulent assertion of another’s identity by  
11 the defendant, may strike that name from the complaint at any time  
12 and without the defendant being present, provided that a corpus  
13 identity for the defendant was listed on the original complaint, or  
14 a corpus identity for the defendant is offered by the people.

15 (d) A court, upon belief that the name listed on the complaint  
16 was listed in error, may strike that name from the complaint at any  
17 time and without the defendant being present, provided that a  
18 corpus identity for the defendant is named on complaint, or a  
19 corpus identity for the defendant is offered by the people.

20 (e) Having stricken a name from a complaint pursuant to  
21 subdivision (c) or (d), the court may, at any time thereafter and  
22 without the defendant being present, amend the complaint to  
23 identify the defendant by any name by which the person  
24 distinguished by the corpus identity is believed to be known or by  
25 the corpus identity offered by the people.

26 (f) Having stricken a defendant’s name from a complaint  
27 pursuant to subdivision (c), the court may issue orders using the  
28 corpus identity listed on the complaint to identify the defendant,  
29 unless the defendant has been named on the complaint pursuant  
30 to subdivision (e), in which case orders shall list both the  
31 defendant’s name and corpus identity.

32 (g) A person, who uses the name of another during a detention  
33 or arrest, may be identified in a subsequent complaint by a corpus  
34 identity only. Having received a complaint so filed, the court may:

35 (1) Amend the complaint, at any time thereafter and without the  
36 defendant being present, to identify the defendant by any name by  
37 which the person distinguished by the corpus identity is believed  
38 to be known.

39 (2) Issue orders using the corpus identity listed on the  
40 complaint to identify the defendant, unless the defendant has been

1 *named on the complaint pursuant to paragraph (1), in which case*  
2 *orders shall list both the defendant's name and corpus identity.*

3 *SEC. 2. Section 814 of the Penal Code is amended to read:*

4 814. A warrant of arrest issued under Section 813 may be in  
5 substantially the following form:

6  
7 County of \_\_\_\_\_

8 The people of the State of California to any peace officer of said  
9 State:

10 Complaint on oath having this day been laid before me that the  
11 crime of \_\_\_\_\_ (designating it generally) has been committed and  
12 accusing \_\_\_\_\_ (naming defendant, *corpus identity alphanumeric,*  
13 *or both*) thereof, you are therefore commanded forthwith to arrest  
14 the above named defendant and bring him before me at \_\_\_\_\_  
15 (naming the place), or in case of my absence or inability to act,  
16 before the nearest or most accessible magistrate in this county.

17  
18 Dated at \_\_\_\_\_ (place) this \_\_\_\_\_ day of \_\_\_\_\_,  
19 19 20 \_\_\_\_.

20 \_\_\_\_\_  
21 (Signature and full official title of magistrate.)  
22

23 *SEC. 3. Section 815 of the Penal Code is amended to read:*

24 815. A warrant of arrest shall specify the name of the  
25 defendant or, if it is unknown to the magistrate, judge, justice, or  
26 other issuing authority, the defendant may be designated therein by  
27 any name *or corpus identity*. It shall also state the time of issuing  
28 it, and the city or county where it is issued, and shall be signed by  
29 the magistrate, judge, justice, or other ~~issuing~~ authority issuing it  
30 with the title of his office and the name of the court or other issuing  
31 agency.

32 *SEC. 4. Section 816 of the Penal Code is amended to read:*

33 816. A warrant of arrest shall be directed generally to any  
34 peace officer, or to any public officer or employee authorized to  
35 serve process where the warrant is for a violation of a statute or  
36 ordinance which such person has the duty to enforce, in the state,  
37 and may be executed by any of those officers to whom it may be  
38 delivered.

39 When a warrant of arrest has been delivered to a peace officer  
40 and the person named *or identified by corpus identity* in the

1 warrant is otherwise lawfully in the custody of the peace officer,  
2 the warrant may be executed by the peace officer or by any clerk  
3 of a city or county jail authorized to act and acting under the peace  
4 officer's direction.

5 *SEC. 5. Section 950 of the Penal Code is amended to read:*

6 950. The accusatory pleading must contain:

7 1. The title of the action, specifying the name of the court to  
8 which the same is presented, and the names of the parties,  
9 *although the defendant may be identified by name, corpus identity,*  
10 *or both;*

11 2. A statement of the public offense or offenses charged  
12 therein.

13 *SEC. 6. Section 953 of the Penal Code is amended to read:*

14 953. When a defendant is charged by a fictitious or erroneous  
15 name, *by a corpus identity, or by both a fictitious or erroneous*  
16 *name and a corpus identity,* and in any stage of the proceedings his  
17 true name is discovered, it must be inserted in the subsequent  
18 proceedings, referring to the fact of his being charged by the name  
19 *or corpus identity or both* mentioned in the accusatory pleading.

20 *SEC. 7. Section 959 of the Penal Code is amended to read:*

21 959. The accusatory pleading is sufficient if it can be  
22 understood therefrom:

23 1. That it is filed in a court having authority to receive it, though  
24 the name of the court be not stated.

25 2. If an indictment, that it was found by a grand jury of the  
26 county in which the court was held, or if an information, that it was  
27 subscribed and presented to the court by the district attorney of the  
28 county in which the court was held.

29 3. If a complaint, that it is made and subscribed by some natural  
30 person and sworn to before some officer entitled to administer  
31 oaths.

32 4. That the defendant is named, or if his name is unknown, that  
33 he is described by a fictitious name *or corpus identity,* with a  
34 statement that his true name is to the grand jury, district attorney,  
35 or complainant, as the case may be, unknown.

36 5. That the offense charged therein is triable in the court in  
37 which it is filed, except in case of a complaint filed with a  
38 magistrate for the purposes of a preliminary examination.

39 6. That the offense was committed at some time prior to the  
40 filing of the accusatory pleading.

1 read:

2 ~~12071.5.—(a)—Commencing on January 1, 2006, no person~~  
3 ~~licensed pursuant to Section 12701 may sell, loan, or transfer any~~  
4 ~~pistol, revolver, or other firearm capable of being concealed upon~~  
5 ~~the person unless that firearm includes an integrated mechanical~~  
6 ~~safety device or other incorporated design technology that is~~  
7 ~~designed to prevent children and other unauthorized users from~~  
8 ~~discharging that firearm.~~

9 ~~(b) For purposes of this section, “integrated mechanical safety~~  
10 ~~device” means a disabling or locking device that is incorporated~~  
11 ~~within the design of a pistol, revolver, or other firearm capable of~~  
12 ~~being concealed upon the person, and as part of its original~~  
13 ~~manufacture, technology that automatically limits its operational~~  
14 ~~use, and that cannot be readily deactivated, so that it may only be~~  
15 ~~fired by an authorized or recognized user. The technology limiting~~  
16 ~~the operational use of the pistol, revolver, or other firearm capable~~  
17 ~~of being concealed upon the person may include, but is not limited~~  
18 ~~to, radio tagging, touch memory, remote control, fingerprint,~~  
19 ~~magnetic encoding, and other automatic user identification~~  
20 ~~systems using biometrics, mechanical and electronic systems.~~

21 ~~(c) Subdivision (a) shall not apply to any of the following:~~

22 ~~(1) The sale, loan or transfer of a pistol, revolver, or any other~~  
23 ~~firearm capable of being concealed upon the person to any law~~  
24 ~~enforcement agency, or any agency authorized to perform law~~  
25 ~~enforcement duties.~~

26 ~~(2) The sale, loan, or transfer of a pistol, revolver, or any other~~  
27 ~~firearm capable of being concealed upon the person to any peace~~  
28 ~~officer, as defined in Chapter 4.5 (commencing with Section 830)~~  
29 ~~of Title 3 of Part 2, who is authorized to, and who does, carry a~~  
30 ~~firearm during the course and scope of his or her employment.~~

31 ~~(3) The sale, loan, or transfer of a pistol, revolver, or any other~~  
32 ~~firearm capable of being concealed upon the person to any~~  
33 ~~employee of any law enforcement agency or any agency~~  
34 ~~authorized to perform law enforcement duties, who is authorized~~  
35 ~~to, and who does, carry a firearm during the course and scope of~~  
36 ~~his or her employment.~~

37 ~~(4) The sale of a pistol, revolver, or any other firearm capable~~  
38 ~~of being concealed upon the person, pursuant to Section 12082.~~

39 ~~(5) The sale, loan, or transfer of a pistol, revolver, or any other~~  
40 ~~firearm capable of being concealed upon the person that is a curio~~

1 or relic, as defined in Section 178.11 of Title 27 of the Code of  
2 Federal Regulations, or that is an antique firearm, as defined in  
3 paragraph (16) of subsection (a) of Section 921 of Title 18 of the  
4 United States Code.

5 (6) The return of a pistol, revolver, or any other firearm capable  
6 of being concealed upon the person by a dealer to the owner of that  
7 firearm.

8 (7) The sale, loan, or transfer of a pistol that is sanctioned by  
9 the International Olympic Committee and by USA Shooting, the  
10 national governing body for international shooting competition in  
11 the United States, and that is used for Olympic target shooting  
12 purposes as specified in paragraph (2) of subdivision (h) of Section  
13 12132.

14 (d) The Attorney General shall adopt rules and regulations for  
15 the implementation and enforcement of this section. The rules and  
16 regulations shall permit a pistol, revolver, or other firearm capable  
17 of being concealed upon the person that incorporates an integrated  
18 mechanical safety device pursuant to this section to be discharged  
19 by a person to whom the firearm is lawfully loaned.

20 (e) A violation of this section is punishable by a civil penalty  
21 of up to fifty thousand dollars (\$50,000) for each firearm that is  
22 sold, loaned, or transferred in violation of this section.

23 (f) The sale, loan, or transfer of a pistol, revolver, or other  
24 firearm capable of being concealed upon the person by a person  
25 licensed pursuant to Section 12071 in violation of this section shall  
26 constitute a breach of the license issued pursuant to Section 12071,  
27 and the license shall be subject to forfeiture.